

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 405 of 1981

with

SPECIAL CIVIL APPLICATION No 5723 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J M JOSHIPURA & OTHERS

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR PV HATHI & MR SM MAZGAONKAR for the petitioners.

MR MG DOSHI for respondent no.1

None present for other respondent.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. In view of subsequent developments which have taken place after filing of these Special Civil Applications, nothing more survives in these Special Civil Applications. It is not

necessary to give out the facts and details of these Special Civil Applications and to take all the points which have been raised by the petitioners in these Special Civil Applications. It is not in dispute that the Government of Maharashtra, the respondent no.2, herein issued a provisional common seniority list of Superintendents on 1-11-1956 vide order dated 26-5-1987. This provisional seniority list is finalised vide order dated 19th May, 1992 by the respondent no.2. The petitioners in this Special Civil Application have been given appropriate place in the final seniority list. So the substantial grievance regarding the placement of petitioners in the seniority list of the Superintendents to be published by the Government of Maharashtra has come to an end. Now only grievance remains is that the petitioners should have been given the consequential benefits on the improved position of their seniority in the final seniority list as published on 19th May, 1992. The petitioners have come up with a case that many other persons, junior to them, now as per the revised seniority list have been given promotion to the next higher post. The petitioners further contended that the case of the petitioners for promotion is to be considered qua their juniors by the Government of Maharashtra and thereafter the matter is to be sent to the State of Gujarat. The State of Gujarat will consider the matter of giving all the benefits to the petitioners thereafter. The counsel for the respondent has not disputed this position. The interest of justice will be met in case these Special Civil Applications are disposed of with the directions, (1) that the Government of Maharashtra shall consider the cases of the petitioners for giving them the promotion to the next higher post from the date on which their juniors have been promoted. The respondent no.2, Government of Maharashtra will consider the cases of the petitioners for promotion, and only if they are found suitable then only the promotion may be given to the petitioners. The respondent no.2, Government of Maharashtra shall undertake this exercise within a period of four months from the date of receipt of certified copy of this order. In case the petitioners are found suitable for promotion to the next higher post from the date on which their juniors had been promoted, then the petitioners shall be entitled for all the consequential benefits and the determination thereof shall be made by the Government of Maharashtra within a period of two months thereafter. The arrears found payable on determination of the benefits be paid to the petitioners within one month next.

2. The Government of Maharashtra thereafter shall

send the papers to the Government of Gujarat and the Government of Gujarat will consider giving effect thereof in the cases of the petitioners and their cases for further promotion shall be considered accordingly within a period of four months from the date of receipt of papers from the Government of Maharashtra. In case the petitioners are found entitled for further promotion from the date on which their juniors had been promoted, then the petitioners shall be entitled for all the consequential benefits and the determination thereof shall be made within a period of two months thereafter. The arrears found payable to the petitioners shall be paid to them within one month next. In case on considering the cases of the petitioners for promotion, the Government of Maharashtra or Gujarat considers that they are not entitled for the promotion from the deemed date i.e. the date on which their juniors were promoted, a reasoned order may be passed and a copy of the same may be sent to the legal heirs and representatives of the deceased petitioner in Special Civil Application No.405 of 1981 and to the petitioner in another writ petition. Rule is made absolute in the aforesaid terms with no order as to costs.

zgs/-